

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES LEE McPHADEN,

Defendant.

Case No. CR95-5828FDB

ORDER RE DEFENDANT'S LETTER
DATED JUNE 2, 2006

In Defendant's letter dated June 2, 2006, he requests that this Court, among other things, "make a notation in the pre-sentence report stating that Oregon State Case #8011-34090 is not to be considered by any federal court for enhancement purposes." The United States has responded.

Defendant has previously filed motions pursuant to 28 U.S.C. § 2255. The Ninth Circuit upheld the District Court's denial of a 2255 motion on March 29, 2004 [Dkt. # 79]. Defendant moved pursuant to Fed. R. Civ. P. 35 for amendment of his sentence, which was denied on July 7, 2005 [Dkt. # 90]. The Ninth Circuit denied a certificate of appealability for the latter order on December 27, 2005 [Dkt. # 100] and instructed Defendant that he must seek and order from the Court of Appeals authorizing the District Court to consider a second or successive 2255 petition. The issue Defendant raises in his June 2, 2006 letter has been raised earlier and rejected.

ACCORDINGLY, treating Defendant's June 2, 2006 letter as a motion pursuant to 28 U.S.C. § 2255 the Court will take no action.

DATED this 29th day of June, 2006.



FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE